

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

BABCOCK BORSIG POWER GmbH, )  
Plaintiff, )  
)  
)  
v. )  
)  
BABCOCK POWER, INC., )  
Defendant and Third-Party Plaintiff, )  
)  
v. )  
)  
)  
BABCOCK BORSIG, AG, )  
Third-Party Defendant. )  
\_\_\_\_\_ )

Civil Action No.: 04 CV 10825-RWZ

**PLAINTIFF BABCOCK BORSIG POWER GmbH's MOTION TO COMPEL  
TESTIMONY BY RULE 30(b)(6) WITNESS**

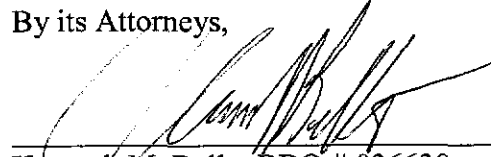
Plaintiff Babcock Borsig Power GmbH ("Babcock GmbH") moves for an Order (proposed form included with this Motion) compelling Defendant Babcock Power, Inc. ("BPI"): (i) to produce for deposition a Rule 30(b)(6) witness that complies with the Federal Rules of Civil Procedure; and (ii) to require the witness to testify fully as to matters within the scope of the designated topics. As to the latter, Babcock GmbH specifically seeks a ruling that BPI, through its corporate witness, has improperly refused to answer questions based on a purported, false assertion of attorney-client privilege.

In support of this Motion, Babcock GmbH submits a Memorandum of Law and Exhibits, the Affidavit of Attorney John Welsh and a Proposed Order are submitted with this Motion.

Respectfully submitted,

BABCOCK BORSIG POWER GmbH

By its Attorneys,

A handwritten signature in black ink, appearing to read 'Kenneth M. Bello', is written over a horizontal line.

Kenneth M. Bello, BBO # 036630

John F. Welsh, BBO #522640

Kevin R. Powers, BBO # 644635

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Dated: January 6, 2006